

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 3:19-CR-19-MHL
)	
TROY GEORGE SKINNER,)	
)	
Defendant.)	
)	

**UNITED STATES’ RESPONSE IN OPPOSITION TO
DEFENDANT’S MOTION TO USE JURY QUESTIONNAIRE**

The United States of America, by and through its attorneys, undersigned attorneys, hereby responds in opposition to Defendant’s Motion to Use Jury Questionnaire (ECF No. 33). Of course, “federal judges have been accorded ample discretion in determining how to best conduct the *voir dire*.” *Rosales–Lopez v. United States*, 451 U.S. 182, 189 (1981). But for the reasons set forth below, defendant’s motion should be denied.

A jury questionnaire in this case is unnecessary. To begin with, the written questions proposed by defendant are not so numerous as to necessitate a questionnaire. Several of defendant’s unobjectionable questions can easily be asked during *voir dire*. The trial is not expected to be lengthy – it should last no more than a week. And, the case is not complex – indeed, the facts of the case occurred over a matter of months, the documents involved are not voluminous, nor are any of the concepts sophisticated.

It is correct that the defendant’s case initially received an above-average amount of publicity, but this fact should not be exaggerated. The government disputes defendant’s assertion that news coverage of the incident was “unrelenting.” As the defendant points out, on occasion jury questionnaires have been used in non-capital cases. But SKINNER’s case has not been so notorious that simply calling in a larger jury pool would account for the possibility that some

prospective jurors have been exposed to media coverage about the case. Further, sending a jury questionnaire detailing facts about the case risks potential jurors performing their own research in a way that contemporaneous in-court *voir dire* does not.

More concerning, however, are the questions that SKINNER includes in his proposed jury questionnaire. Several of defendant's proposed questions and factual assertions are argumentative and of dubious accuracy. For example, defendant's proposed Question One is not a complete summary of the instant case, and its selective use of statutory language is skewed. The paragraph proceeding Questions 7 through 10 asserts arguments as fact in a prejudicial manner. Questions 7 through 10, which would ask perspective jurors' their views and opinions about pornography from a religious, moral, ethical, philosophical and historical perspective, and how often pornography prosecutions *should* happen in the United States, are totally inappropriate to put to jurors.

I. CONCLUSION

For all of the above reasons, the United States requests that the Court deny defendant's motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **April 26, 2019**, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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